

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of Appeal of Invasive  
Species/Infested Waters Citation  
#116894 Issued to Martin Arredondo

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

This matter came on for a Prehearing Telephone Conference on July 19, 2012. Administrative Law Judge (ALJ) Richard C. Luis, 1LT Tim Knellwolf, Conservation Officer Brian Mies, and Martin Arredondo participated in the Conference. The parties agreed that no formal hearing would be needed and that the ALJ could make a recommendation based on the record created during the Prehearing Telephone Conference. To that end, 1LT Knellwolf, Officer Mies and Martin Arredondo testified under oath. The OAH record closed at the conclusion of the Prehearing Conference.

**STATEMENT OF ISSUE**

Whether Martin Arredondo violated Minn. Stat. § 84D.10, subd. 4(b), when he transported his watercraft with the drain plug in place?

The Administrative Law Judge concludes that Martin Arredondo did violate Minn. Stat. § 84D.10, subd. 4(b), on May 12, 2012. Accordingly, the Administrative Law Judge **RECOMMENDS** that the Commissioner **AFFIRM** the citation.

Based on the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. Department of Natural Resources (Department, DNR) Conservation Officers are authorized to issue warnings or citations to a person who fails to remove plugs from water-related equipment before transporting that equipment.<sup>1</sup>

2. On May 12, 2012, 1LT Knellwolf and Officer Nelson observed Martin Arredondo pull a boat into an access point on the shore of Clearwater Lake in Stearns County. The boat had its drain plug in place during the time it was being transported.<sup>2</sup>

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<sup>1</sup> See Minn. Stat. § 84D.13, subd. 4(4).

3. 1LT Knellwolf inspected Mr. Arredondo's boat, found water in it, and pulled the boat's plug to drain the water.<sup>3</sup>

4. Mr. Arredondo explained the boat was being used for the first time in 2012 on that day. He noted that he had pulled it from his house only, and that the water was from recent rainfall events.<sup>4</sup>

5. 1LT Knellwolf decided that the source of the water on the boat could not be determined.

6. 1LT Knellwolf and Conservation Officer Mies issued Civil Citation No. 116894 to Mr. Arredondo. The Citation asserted that Mr. Arredondo transported a watercraft on a public road with the drain plug in place. The penalty for the Citation is a \$50.00 fine.<sup>5</sup>

7. Martin Arredondo timely appealed the Citation.<sup>6</sup> He argues that the Conservation Officer should have issued a warning only, because he was not transporting the boat from another body of water. The water at the boat's bottom came from rain incidents the week before May 12. During that time, the boat was outside and uncovered in Mr. Arredondo's driveway.

Based on the Findings of Fact, the Administrative Law Judge makes the following:

## CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Natural Resources have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 116.072, subd. 6.

2. The Department has substantiated the violation and Citation, and Mr. Arredondo admitted he was transporting a boat with its drain plug in, as charged in the Citation.

3. It is appropriate that the Commissioner **AFFIRM** Civil Trespass Citation #116894 and require Mr. Arredondo to pay a \$50 fine for violating Minn. Stat. § 84D.10, subd. 4(b).

4. 1LT Knellwolf and Officer Mies acted within their statutory discretion by issuing a Civil Citation in this case because Mr. Arredondo's boat had been transported with its drain plug in and water was in the boat.

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<sup>2</sup> Testimony of 1LT Tim Knellwolf and Officer Mies.

<sup>3</sup> *Id.*

<sup>4</sup> Testimony of Martin Arredondo.

<sup>5</sup> Citation 116894.

<sup>6</sup> Appeal Letter May 21, 2012.

Based on the Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

**IT IS RECOMMENDED** that the Commissioner of Natural Resources **AFFIRM** the citation issued to Martin Arredondo on May 12, 2012.

Dated: July 25th, 2012

/s/ Richard C. Luis

RICHARD C. LUIS

Administrative Law Judge

Reported:    Recorded Digitally

### **NOTICE**

Pursuant to Minn. Stat. § 116.072, subd. 6 (e), the Commissioner may not issue a final order until at least five days after receipt of the report of the Administrative Law Judge. The persons to whom the order is issued may, within those five days, comment to the Commissioner and the Commissioner will consider the comments. The Commissioner must send a copy of the final decision to Martin Arredondo. The final order of the Commissioner may be appealed pursuant to Minn. Stat. §§ 14.63-14.69. If the Commissioner fails to act within 90 days after the record closes, this recommendation will become the final decision in this matter.